

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF PENNSYLVANIA**

<b>RONALD BRILEY,</b>	:	
<b>Plaintiff</b>	:	<b>CIVIL ACTION NO. 1:20-756</b>
<b>v.</b>	:	<b>(JUDGE MANNION)</b>
<b>PATRICIA HOWELL, et al.,</b>	:	
<b>Defendants</b>	:	

**ORDER**

Presently before the court is the Report and Recommendation (“Report”) of Magistrate Judge Martin C. Carlson. ([Doc. 20](#)). In it, Judge Carlson recommends that the motion to dismiss, ([Doc. 15](#)), filed by the defendants Patricia Howell, John Steinhard, and Kim Minarchick (“moving defendants”) be granted and that the plaintiff Ronald Briley’s (“Briley”) Complaint, ([Doc. 1](#)), be dismissed as to the moving defendants. No party has filed objections.

Even where no objection is made, the court should, as a matter of good practice, “satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” [Fed.R.Civ.P.72\(b\)](#) advisory committee notes; see also *Univac Dental Co. v. Dentsply Intern., Inc.*, 702 F.Supp.2d 465, 469 (M.D.Pa.2010) (citing *Henderson v. Carlson*, 812 F.2d 874, 878 (3d

[Cir.1987](#)) (explaining judges should give some review to every report and recommendation)). Nevertheless, whether timely objections are made or not, the district court may accept, not accept, or modify, in whole or in part, the findings or recommendations made by the magistrate judge. [28 U.S.C. §636\(b\)\(1\)](#); [M.D.Pa. Local Rule 72.31](#).

In his Report, Judge Carlson notes that Briley has failed to oppose the motion to dismiss, despite requesting and being granted additional time to file a reply. ([Doc. 17](#); [Doc. 18](#)). By order dated August 21, 2020, Briley was granted until October 16, 2020, to respond to the motion to dismiss but, so far, he has failed to file a brief in opposition or to further litigate the case. As the Report observes, and as the August 21, 2020 order warned Briley, under [Local Rule 7.6](#), the motion is now deemed unopposed.

The Report further concludes that dismissal of the case is appropriate pursuant to [Rule 41\(b\) of the Federal Rules of Civil Procedure](#). Judge Carlson applied the requisite *Poulis* factors and concluded that all weighed in favor of dismissal. With respect to the merits in particular, Judge Carlson determined that Briley's claims fail as a matter of law because, while Briley identifies the moving defendants as DOC employees, he fails to allege any actual wrongdoing or personal involvement on their part. As a result, Judge Carlson recommends that the court find that Briley's Complaint has failed to

state a claim against the moving defendants and to grant their motion to dismiss.

The court has conducted a thorough review of all pertinent filings and finds the Report of Judge Carlson to be well-reasoned and well-supported. As such, the court will adopt the report in its entirety as the decision of the court.

**NOW, THEREFORE, IT IS HEREBY ORDERED THAT:**

(1) Judge Carlson's Report, ([Doc. 20](#)), is **ADOPTED IN ITS ENTIRETY**;

(2) The moving defendants' motion to dismiss, ([Doc. 15](#)), is **GRANTED**;

(3) Briley's Complaint, ([Doc. 1](#)), is **DISMISSED WITH PREJUDICE** as to Defendants Howell, Steinhart, and Minarchick; and

(4) The matter is **REMANDED** to Judge Carlson for further proceedings.

s/ Malachy E. Mannion  
**MALACHY E. MANNION**  
**United States District Judge**

**DATE: November 10, 2020**

20-0756-01